

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF WISCONSIN

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In re:

Case No. 21-23369

Chapter 13

Steven M Swattler and Molly M Swattler,

Debtor(s).

***OBJECTION TO CONFIRMATION  
AND REQUEST FOR HEARING***

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TO: Debtor(s) and Attorney for Debtor(s); Rebecca R. Garcia, Chapter 13 Trustee; U.S. Trustee; and other parties in interest.

1. Performance Finance, the Respondent, a secured creditor of Debtor(s), by its undersigned attorney, makes this objection to the confirmation of the proposed plan of the Debtor(s).
2. This objection is filed pursuant to Fed. R. Bankr. P. 3015(f) and Performance Finance requests this Court to enter an order denying confirmation of Debtor(s)' proposed Chapter 13 plan (the "Plan"). This Court has jurisdiction over this motion pursuant to 28 U.S.C. Sec. 1334(a) and 157(a), 11 U.S.C. §1325 and applicable rules. This is a core proceeding.
3. The petition commencing this Chapter 13 case was filed on June 11, 2021 and the case is now pending in this Court.
4. Respondent holds a valid, perfected interest in a 2017 Indian Motorcycle, vehicle identification number 56KTHAAA5H3349291 (the "Vehicle").
5. Copies of Respondent's agreement with Debtor(s) (the "Contract") and evidence of perfection of Respondent's interest in the Vehicle are attached hereto as Exhibits A and B and incorporated herein by reference.
6. The balance due to Respondent as of the petition date totals \$22,309.64. The fair market value of the Vehicle is \$18,480.00. Accordingly, the claim of Respondent should be treated as secured to the extent of \$18,480.00.

7. The Plan, however, provides for (i) Respondent's secured claim of \$10,525.00 with interest accruing at 4.75%; and (ii) estimated total payment on Respondent's secured claim of \$11,900.15.

8. Based on the length of the Plan proposed, and the balance owing, Respondent believes the monthly payment will need to be \$359.42 for 60 months of the plan including the pre-confirmation months, for an estimated total of \$21,565.34 on the claim.

9. The Plan fails to satisfy Respondent's secured claim plus interest utilizing the payments set forth by Debtor(s).

10. The interest rate does not comply with the risk formula adopted by the Supreme Court. A plan must provide interest to a secured creditor at a rate equal to the "national prime rate" plus a risk factor ("...the courts must choose a rate high enough to compensate a creditor for its risk..."). *Till v. SCS Credit Corp.* The national prime rate is currently 3.25% and a reasonable risk factor, in this case, is at least 3%. Therefore, Debtor(s)' Plan should provide for interest on Respondent's secured claim at a rate of at least 6.25%.

11. Accordingly, the Plan does not meet the confirmation requisites and should be denied.

WHEREFORE, Performance Finance respectfully requests this Court to enter an order denying confirmation of the Debtor(s)' proposed plan and such other further relief as is just and equitable.

Dated: July 14, 2021

STEWART, ZLIMEN & JUNGERS, LTD.  
By /s/ Bradley J. Halberstadt  
Bradley J. Halberstadt (#215296)  
Attorneys for Performance Finance  
2860 Patton Road  
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UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF WISCONSIN

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In re:

Steven M Swattler and Molly M Swattler

Debtor(s).

UNSWORN DECLARATION

FOR PROOF OF SERVICE

Bky. No. 21-23369

Bradley J. Halberstadt, agent of Stewart, Zlimen & Jungers, Ltd., being an attorney admitted to practice law in this court, with office address of with office address of 2860 Patton Road, Roseville, MN 55113, declares that on the date set forth below, I served the annexed **Objection to Confirmation** upon each of the entities named below by electronic transmission or by mailing to each of them a copy thereof by enclosing same in an envelope with first class mail postage prepaid and depositing same in the post office at Roseville, Minnesota addressed to each of them as follows:

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United States Trustee  
517 East Wisconsin Avenue, Room  
430  
Milwaukee, WI 53202

(Attorney for Debtor(s))  
Michelle A. Angell  
Krekeler Strother, S.C.  
2901 West Beltline Hwy, Suite 301  
Madison, WI 53713  
6082588555  
Fax : 6082588299

(Trustee)  
Rebecca R. Garcia  
Chapter 13 Trustee  
P.O. Box 3170  
Oshkosh, WI 54903-3170

(Debtor(s))  
Steven M Swattler and Molly M  
Swattler  
W6350 Lilac Rd.  
Menasha, WI 54952

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And I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: July 14, 2021

Signed: /s/ Bradley J. Halberstadt

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